



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

David L. Armstrong
Chairman

James W. Gardner
Vice Chairman

Linda K. Breathitt
Commissioner

December 16, 2014

PSC STAFF OPINION 2014-017

Jerry Wayne Slone
P.O. Box 882
Hindman, Kentucky 41822

Re: Request for Advisory Opinion Regarding Training Required
For Newly Appointed Water District Commissioners

Dear Mr. Slone:

Commission Staff acknowledges receipt of your letter of December 3, 2014, in which you request an Opinion regarding the Public Service Commission's training requirements for newly appointed commissioners of water districts. This opinion represents Commission Staff's interpretation of the law as applied to the facts presented, is advisory in nature, and is not binding on the Commission should the issues herein be formally presented for Commission resolution.

Based upon your letter, Commission Staff understand the facts as follows:

You indicate that you served as a commissioner of the Knott County Water and Sewer Board for a couple of years in the late 1990s and had a second period of service beginning in 2002 or 2003 and ending June 30, 2011. You indicate that you do not know whether you are identified as a 'new board member' or an 'old board member' with regard to the Public Service Commission's training requirements.

Your letter presents the following question: Who is required to complete the program of instruction that is required pursuant to KRS 74.020(8) for newly appointed commissioners?

KRS 74.020(8)(a) provides:

At least once annually, the Public Service Commission shall provide or cause to be conducted a program of instruction, consisting of at least

twelve (12) hours of instruction, that is intended to train newly appointed commissioners in the laws governing the management and operation of water districts and other subjects that the Public Service Commission deems appropriate. The commission may charge a reasonable registration fee to recover the cost of the programs and may accredit programs of instruction that are conducted by other persons or entities and that the commission deems equivalent to its program of instruction.

KRS 74.020(8)(b) provides:

Within twelve (12) months of his or her initial appointment, each commissioner shall complete the program of instruction described in paragraph (a) of this subsection. Any commissioner who fails to complete the program within twelve (12) months of his or her initial appointment shall forfeit his or her office and all right to act in discharge of the duties of the office. A commissioner required to attend a program under this subsection shall be reimbursed for the cost of instruction by his or her water district.

KRS 446.080 provides:

- (1) All statutes of this state shall be liberally construed with a view to promote their objects and carry out the intent of the legislature, and the rule that statutes in derogation of the common law are to be strictly construed shall not apply to the statutes of this state.
- (2) There shall be no difference in the construction of civil, penal and criminal statutes.
- (3) No statute shall be construed to be retroactive, unless expressly so declared.
- (4) All words and phrases shall be construed according to the common and approved usage of language, but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed according to such meaning.

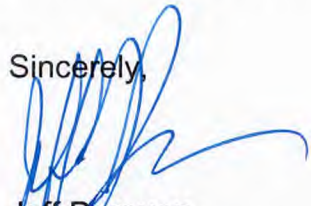
Commission Staff notes that KRS 446.080(1), in pertinent part, requires that all statutes of this state be liberally construed with a view to promote their objectives and carry out the intent of the legislature. Commission Staff notes that KRS 74.080(8)(a) requires the Commission to provide or cause to be conducted a program of instruction for the purpose of training "newly appointed commissioners in the laws governing the management and operation of water districts and other subjects that the Public Service Commission deems appropriate." The legislative intent is for newly appointed commissioners to have appropriate training in the laws governing the management and

operation of water districts and other appropriate subjects. Commission Staff further notes that, pursuant to KRS 74.080(8)(b), "[a]ny commissioner who fails to complete the program within twelve (12) months of his or her initial appointment shall forfeit his or her office and all right to act in discharge of the duties of the office." Commission Staff notes that the mandatory forfeiture provision for lack of compliance with the training requirement supports an interpretation that the legislature views an adequately trained board as the paramount objective of KRS 74.080(8).

KRS 74.020(8)(a) and (b) became effective on July 15, 2010.¹ Commission Staff notes that, consistent with KRS 446.080(3), KRS 74.080 should not be construed as applicable to a person who was serving as a commissioner on July 15, 2010 and has continued serving as a commissioner without interruption since that date. However, any person who was not serving as a commissioner on July 15, 2010 and is appointed as a commissioner after that date would be serving "his or her initial appointment" and is required to satisfy 74.080(b). Therefore, Commission Staff notes that you should be considered a new board member for purposes of KRS 74.080(8)(b) due to the fact that you have not been serving continuously as a commissioner since KRS 74.020(8)(a) and (b) became effective on July 15, 2010.

This letter represents the Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and is not binding on the Commission should the issues herein be formally presented for Commission resolution. Questions concerning this opinion should be directed to David Spenard, Staff Attorney at (502) 782-2580.

Sincerely,



Jeff Derouen
Executive Director

DS/kg

¹ See, for background, Ky Acts 2010, c 18, § 1.